

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**TODD W WINTER**

Claimant,

and

**ANTHONY**

Employer.

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**HEARING NUMBER: 13B-UI-14335**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**N O T I C E**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-2-A, 96.3-7

**D E C I S I O N**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

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Monique F. Kuester

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Cloyd (Robby) Robinson

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge in its entirety. The employer terminated the claimant based on three prior written warnings. The final act involved the claimant stacking pallets pursuant to his supervisor's instructions, which turned out to be incorrect. Both the claimant and the supervisor were disciplined. The supervisor did not participate in the hearing. I find the claimant's testimony credible that he was instructed to stack the pallets incorrectly. For this reason, I would conclude that the employer failed to satisfy its burden of proof. Benefits should be allowed provided the claimant is otherwise eligible.

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John A. Peno

AMG/fnv